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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/485,288 02/07/00 ECKEL

T MQ-5494/LEA

EXAMINER
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IM22/0711

Hoke, V

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100 BAYER ROAD  
PITTSBURGH PA 15205-9741

ART UNIT	PAPER NUMBER
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1714

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DATE MAILED: 07/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/485,288

Applicant(s)  
ECKEL ET AL

Examiner  
VERONICA P. HOKE

Art Unit  
1714



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on May 23, 2001

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-6, 8-10, and 15-17 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-6, 8-10, and 15-17 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other: \_\_\_\_\_

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6,8-10 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent 07-11119 taken with Lee, Kakegawa et al and Nishihara et al for the reasons stated in paper no. 4 mailed December 21, 2000..

To the contrary ( response at page 4) Nishihara et al relates similarly in col.7, lines 47-58, that the styrene-grafted rubber component's particle size may be as low as 0.1 micron ( " as low as 0.1..."). Accordingly there can hardly said to be any unexpected criticality in this aspect.

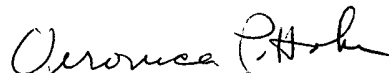
The remaining argument is like wise untenable because all three of the secondary references tend to suggest that monophosphates while less compatible than the oligomeric phosphates, improve their flameproofing efficiency and thus beneficial primarily as an adjunct flame retarder. Nishihara states ( col.11, line 11- col.12, line 17) that impact strength is benefited. Kakegawa relates ( col. 7, line 28- col.8, line 20) that upto 30 % supplementation of the oligomeric phosphate by the monophosphate is beneficial.Lee relates ( col.4, lines 60-63) that mixtures of the two types , i.e. where  $n=0$  as typified by triphenyl phosphate ( TPP) and oligomers wherein  $n$  is 1 or more, do not manifest the juicing problem representative of the monophosphate . Physical properties are equally benefited by using the blend instead.Hence utilizing the blend in lieu of the oligomeric phosphates per se of the primary reference in a PC/polystyrene blend wherein the

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grafted styrene component contains a diene ( or acrylate) rubber having a particle size as small as 0.1 micron and a glass transition temperature lower than 0°C is prima facie obvious.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

  
**VERONICA P. HOKE**  
**PRIMARY EXAMINER**

vph

July 10, 2001

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